

1 chiefs come directly to myself. Or unless we was
2 having -- if they are having a shift meeting or
3 something that I would attend, I would attend and
4 hear people's views then. I'm very open.

5 Q. You have an open door policy?

6 A. I'm open to people's views, yes, sir, if
7 I'm given a chance.

8 Q. Did you ever invite Mr. Davis or any other
9 leaders of the local firefighters union to come in
10 and discuss issues with you?

11 A. I had no reason to. I wasn't -- like I
12 say, I wasn't given a chance of these concerns.

13 Q. But there were, in fact, a lot of newspaper
14 articles, right, that firefighters were expressing
15 their concerns about employee morale and shift
16 schedules and staffing levels? In fact, you were
17 interviewed for those articles. Did that give you
18 occasion to bring in the firefighters or local union
19 leaders and sit down and just chat about those
20 issues?

21 A. When that came about, sir, it just came out
22 of nowhere basically. And the article was there
23 before I was ever given a chance to address
24 anything.

25 Q. But you, in fact, had a chance, after the

1 newspaper articles came out, and you were aware of
2 these concerns --

3 A. That's correct.

4 Q. -- about a lot of firefighters?

5 A. That's correct. And we did have a
6 counseling session with some of the concerns that
7 was in the newspapers, and I opened the door at that
8 time to them. If that's what they wanted to talk
9 about, they just use the chain and come up through
10 the assistant chiefs, and we could talk about those
11 issues. Because you've got to understand, I've got
12 to address more than -- I got to address all
13 personnel.

14 Q. Right. Would you turn your attention to
15 Exhibit 11, which appears to be a memo from David
16 Davis in his position as vice-president of Local
17 3668, the Phenix City Firefighters' Association.
18 It's dated January 25, 2005, and it's addressed to
19 then Chief Jerry Prater.

20 A. Yes, sir.

21 Q. Have you ever seen this memo before today?

22 A. Yes. Chief Prater had this memo.

23 Q. Did Chief Prater give you a copy of it?

24 A. I've seen the one that he had.

25 Q. And did you discuss it with Chief Prater at

1 that time?

2 A. Yes, sir.

3 Q. Okay. And you'll see there that Mr. Davis,
4 on behalf of the firefighters' association, is
5 submitting a proposal which he describes is under
6 the Code of Alabama and asking for a meeting
7 concerning various safety issues, general employment
8 issues, discipline, communications, all of the items
9 that he lists on this document. You see where it
10 says that?

11 A. Yes, sir.

12 Q. And when you say you saw the copy that
13 Chief Prater had, did you have a conversation with
14 Chief Prater about the issues addressed in this
15 memo?

16 A. Yes, sir. Chief Prater had a conversation
17 with Sergeant Davis about this.

18 Q. Were you involved in that discussion?

19 A. No, sir.

20 Q. Did you have any communications with
21 Mr. Davis or the local union about these issues?

22 A. No, sir.

23 Q. So Chief Prater handled it as far as you're
24 concerned?

25 A. Yes, sir.

1 Q. Are you aware, sir -- I'm not asking you to
2 be a lawyer on this question. But are you aware
3 that, at least in a general sense, that under the
4 state Code of Alabama that public employees, such as
5 firefighters in particular, have the right to form a
6 labor organization and be members of a labor
7 association?

8 A. Yes, sir. Everybody that's under my
9 direction, as far as firefighter, is two-fold. They
10 have the right to be a part and they have the right
11 to not be a part, and I represent all.

12 Q. Right. And are you aware under that same
13 provision of the State of Alabama Code that the
14 firefighters not only have a right to be a part of a
15 labor association but also have the right to have a
16 representative to make proposals to a city or county
17 employer about issues of concern? Are you aware of
18 that?

19 A. Correct.

20 Q. And have you been aware of that for a
21 number of years?

22 A. Yes, sir, I have.

23 Q. Let me invite your attention, Chief Hunter,
24 to Exhibit 14, which appears to be at least the
25 first newspaper article, an article from the

1 Columbus Ledger-Enquirer. And although I don't see
2 a date on the top of this, my understanding -- and
3 we'll get to this in a few more questions, is that
4 it came out in September of 2005. And you'll see
5 that you apparently were interviewed as the chief of
6 the Phenix City Fire Department for the purpose of
7 putting this newspaper article together. Do you
8 remember that?

9 A. Yes, sir.

10 Q. You'll see in the second column of this
11 article from the newspaper that the reporter at
12 least indicates the department is in turmoil; and
13 then further down in that second column, there's a
14 quote from Mr. Davis, quote, morale is at the lowest
15 point since I have been here, end quote. And it
16 indicates he's a seven-year veteran and president of
17 the Phenix City Firefighters' Association. Do you
18 see where it says that?

19 A. Correct. Yes, sir.

20 Q. When you were interviewed and then when you
21 read this newspaper article, did you agree or
22 disagree that morale in the fire department was low?

23 A. For some, it might have been. Not for all.

24 Q. Do you know if a majority of the
25 firefighters in the city Fire Department are members

1 of the labor organization that they formed?

2 A. I think, if I'm going back, the number
3 was -- that we got at the review board was -- at the
4 time was probably about one-third.

5 Q. At the review board? The Personnel Board
6 hearing for Mr. Davis?

7 A. That's correct.

8 Q. Do you know at some point in time that
9 there was a majority support among the firefighters
10 in the fire department as being members of the labor
11 organization?

12 A. At one time, it might have been.

13 Q. It indicates further in this article that
14 you, Chief Hunter, were the fourth chief in the last
15 seven years. Is that accurate?

16 A. Yes, sir.

17 Q. Why such a high turnover?

18 A. Basically, we've had some -- well, we had
19 some -- I guess some problems and misunderstandings,
20 and we had -- at this time, I hadn't been in the job
21 but three months.

22 Q. As the fire chief?

23 A. Yes, sir.

24 Q. And you succeeded Prater?

25 A. Yes, sir.

1 Q. Do you know what the circumstances were of
2 why Mr. Prater was no longer the fire chief?

3 A. He signed on for three years. And after
4 his time was up, he decided to go.

5 Q. What is Mr. Prater doing now? Is he in the
6 fire department?

7 A. He's retired.

8 Q. He's retired?

9 A. Yes, sir.

10 Q. It indicates further in the article, quote,
11 over the last five years, 29 firefighters have left
12 for a variety of reasons, including retirement and
13 medical disability, end quote. Is that roughly an
14 accurate statement?

15 A. It might be. It might be different people
16 for different reasons. Retirement, terminations,
17 other -- better jobs. You know, the figures they
18 put in there wasn't -- they can be distorted.

19 Q. It also indicates in this article the city
20 has spots for 51 firefighters. Is that accurate?

21 A. At that time, it probably was.

22 Q. Is it larger now?

23 A. Yes, sir.

24 Q. What's the number?

25 A. Total, when we're at full capacity, it

1 would be 65.

2 Q. And then going back to the rough date of
3 this article -- again, it's, I believe, September
4 2005 -- it indicates in the right-hand column of the
5 article that 44 are currently on the force. In
6 other words, 44 actively employed fire personnel out
7 of 51 spots in the city Fire Department. Was that
8 roughly correct?

9 A. That's correct, but what it didn't tell
10 there was the hiring process was in place. We was
11 having people hired, and it takes several months to
12 have them trained and bring them in. So that number
13 wasn't put in there.

14 Q. But at that point in time, there was seven
15 positions not filled within the fire department?

16 A. Not necessarily not filled, but -- because
17 we had -- I believe we had three people in training,
18 if I'm correct, at that point.

19 Q. But was the fire department understaffed at
20 that point? There was not a full complement of
21 actively employed firefighters?

22 A. It was just like most of the fire
23 departments that are around; the majority you check
24 will be understaffed because of the hiring process.

25 Q. As a fire chief, do you always like to have

1 a full complement of fire personnel to do the job?

2 A. It would be very nice, but it's not -- it's
3 been pretty tough throughout the country.

4 Q. Right now, is there a full complement in
5 the department?

6 A. No, sir. We have people in training now.
7 I have -- we have people in training right now.

8 Q. So right now, what is the number of
9 understaffed that are not full firefighters
10 training?

11 A. Three.

12 Q. Three. Later on in the article on page
13 two, it indicates that, quote, Davis puts it this
14 way -- it's about two inches down that first column
15 --

16 A. Okay, got it.

17 Q. -- quote, we are reluctant to talk because
18 the significant fear of retaliation, being
19 disciplined or fired, end quote. See where it says
20 that?

21 A. Yes, sir.

22 Q. Are you aware of any circumstances that
23 would have supported the statement of Mr. Davis and
24 some of these other firefighters that they were
25 fearful of retaliation or being disciplined or

1 fired?

2 A. No, sir. I don't see any reason for them
3 to be -- have that, because if anybody wanted to
4 talk, I was right over there in my office. So if
5 they followed the chain of command and used the
6 assistant chiefs that was in line, I would talk to
7 anyone.

8 Q. But are you telling me that the
9 firefighters like Sergeant Davis, they can't come
10 directly in to you, I guess, and go in your office
11 and say, Chief, we have an issue of concern about
12 public safety?

13 A. All they had to do is use --

14 Q. They've got to go through the chain of
15 command?

16 A. That's all they've got to do. It's
17 simple. It's easy.

18 Q. So you can't talk to a firefighter directly
19 because that would not be --

20 A. It's easy --

21 Q. -- through the chain of command?

22 A. Sir, if someone had genuine concerns and
23 they channeled that up to the captain and assistant
24 chiefs, I'll get in my vehicle and go to the
25 stations and talk to them.

1 Q. Okay. On page two of this newspaper
2 article over in the right-hand column, it indicates
3 that since January 2000, 21 employees have
4 resigned. Do you know if that's roughly an accurate
5 statement?

6 A. Resigned? I think that mainly should be --
7 that's incorrect. That mainly should be referring
8 to that front page that would be -- part of that
9 would be people that's either terminated, people
10 that's gotten better jobs, people that's left for
11 medical reasons. But as far as resigned, no. It's
12 too good of a job. You won't see that many people
13 resign from it.

14 Q. Later on, it has a quote from a Sergeant
15 Ann Land, L-A-N-D. Is she still employed in the
16 fire department?

17 A. That's correct.

18 Q. At the bottom of the second page, she's
19 quoted in this newspaper article as saying, quote,
20 basically, if you are not happy, you -- and it's cut
21 off, I think, unfortunately on this copy -- to
22 leave; that is what we have been, I think, told
23 several times, end quote. See where it says that?

24 A. Basically if you was unhappy, you could
25 leave, I guess, what has been told to them. I

1 guess when -- currently, she's Firefighter of the
2 Year, so she made some adjustments as well as the
3 Department and --

4 Q. But she was obviously interviewed for this
5 newspaper article, correct?

6 A. That's correct.

7 Q. And, apparently, she was of the view, at
8 least at that time --

9 A. That's right.

10 Q. -- that the view in the department was if
11 you don't like it, you can leave?

12 A. It wasn't the view of the department. I
13 guess that's the way --

14 Q. But it was her view apparently?

15 A. -- some people took it -- well, and --

16 Q. Okay. And then further on in this article,
17 it talks about the firefighters expressing concern
18 about the elimination of swap time. You're familiar
19 with swap time, right?

20 A. That's correct.

21 Q. That's trading in time among firefighters?

22 A. That's correct.

23 Q. Was, in fact, the swap time privilege or
24 right eliminated by the department?

25 A. At one time it was.

1 Q. Is it in place now or is it still
2 eliminated?

3 A. It's in place. It's a better -- we have a
4 better setup for it this time.

5 Q. What's the current setup for swap time?

6 A. We have a set amount of hours that's set to
7 use.

8 Q. What?

9 A. We have a set amount of hours that you can
10 take. It's also better set up in payroll to make
11 sure everything works out right, so --

12 Q. But back in -- as of September of 2005 when
13 this newspaper article came out, swap time was
14 eliminated; is that accurate?

15 A. For a while, yes.

16 Q. Why was it eliminated, sir?

17 A. Chief Prater felt like there were some
18 things going on the swap time, that it was time
19 to --

20 Q. What were the things going on?

21 A. -- to move it for a while. Like if people
22 wasn't keeping, I guess, accurate paperwork. It
23 wasn't -- training didn't have it -- it wasn't --
24 you have to have a certain amount of training per
25 month, okay. It was -- they had to put a -- make

1 sure a cap was kept on top of it, which we always
2 tried to do. So it was some things just went on
3 with it that he felt like needed to be taken away
4 for a while.

5 Q. But in the newspaper article, it refers to
6 the fact that council member Ray Bush tried to
7 mediate the differences between the firefighters and
8 the city. Are you aware that that occurred?

9 A. I've heard that Ray Bush attended a
10 meeting, but as far as -- I never met with Ray Bush.

11 Q. Okay. But you heard information that
12 Council Member Bush attended a meeting with
13 firefighters to address the issues they were
14 raising?

15 A. That's correct.

16 Q. Do you know if anything came out of that
17 meeting that was useful or productive?

18 A. Not that I know of. I don't --

19 Q. Okay. Fair enough. You'll see also in
20 Exhibit 14 that there's a collection of letters
21 submitted by various individuals to newspapers about
22 issues of concern within the Phenix City Fire
23 Department. Were you generally aware of these
24 letters to the editor and did you have a chance at
25 the time to review those letters?

1 A. At times, I would look at some of them,
2 yes, sir. Read some of them because --

3 Q. Because of these newspaper articles that
4 were occurring back in 2005, did you participate in
5 any meetings with the fire chief at the time, or the
6 city manager, in which these newspaper articles and
7 media reports were addressed?

8 A. As far as these articles?

9 Q. Yes.

10 A. As far as just -- I didn't have to have any
11 special meetings on it. Just something mentioned
12 that things are in the paper. That's about it.

13 Q. Well, as a result of the article in
14 September 2005, Exhibit 14, which contains
15 quotations from David Davis and other firefighters,
16 were you asked to conduct any kind of an
17 investigation or review of these comments that the
18 firefighters made in the media reports?

19 A. I wasn't asked. I did one.

20 Q. You did it on your own?

21 A. Yes. I basically needed to -- I'm the
22 department head. I needed to ask why was this done
23 without me being given a chance first to meet with
24 someone over these issues. That was a concern of
25 mines. And then not only that, it was something I

1 needed to discuss with some of the people that was
2 in the paper. You got your freedom of speech, but
3 at the same time, you gotta watch impeding the
4 harmony within this department and the city. And it
5 was a concern. And that's why I had the meetings
6 and counseling sessions.

7 Q. Let me invite your attention to Exhibit 15,
8 which appears to be a memo from you as the fire
9 chief to -- it says member singular, but I believe
10 it was to members -- of the Phenix City Fire
11 Department; is that correct? Is this a memo that
12 you distributed to the --

13 A. That's correct.

14 Q. -- members of the fire department?

15 A. That's right.

16 Q. You have to wait until I finish answering
17 my questions before you start your answer;
18 otherwise, we'll get in trouble with Madam
19 Reporter.

20 A. Okay.

21 Q. This memo, Exhibit 15, is dated
22 September 20, 2005. Is this, in fact, a memo that
23 you drafted and distributed to the members of the
24 fire department?

25 A. Yes, sir.

1 Q. And it addresses the article that appeared
2 recently apparently in the Ledger-Enquirer newspaper
3 regarding the city's fire department. Is that
4 accurate?

5 A. That's correct.

6 Q. Then it goes on to say, quote, several
7 firefighters made comments in the paper that were
8 likely to impair discipline and harmony in the
9 workplace, impede job performance, and jeopardize
10 loyalty in this department, end quote. You see
11 where it says that?

12 A. That's correct.

13 Q. And, again, this would have been in
14 response to your review of this newspaper article
15 that we just covered in Exhibit 14 --

16 A. That is correct.

17 Q. -- is that accurate?

18 A. That's correct.

19 Q. What comments made by Mr. Davis and the
20 other firefighters that were quoted in this
21 newspaper article in your judgment impaired
22 discipline and harmony in the fire department?

23 A. Basically the comments about people being
24 afraid to talk. What was you afraid to talk when
25 you're not talking to anybody? Why would you --

1 that's misleading people. Why would you be afraid
2 to talk when you can use the chain of command and
3 come up and talk to me at any time, if you was
4 willing to give me a chance.

5 Q. But my question really is focused on -- and
6 as you just indicated, a number of the firefighters,
7 including Mr. Davis, expressed fears about potential
8 retaliation and discipline. So on that isolated
9 issue, how would that comment by Mr. Davis in the
10 newspaper article impair discipline and harmony in
11 the fire department?

12 A. It was misleading statements. Who had been
13 disciplined for anything during my tenure -- short
14 tenure so far? That's misleading.

15 Q. But he expressed fear about potential
16 discipline and, in fact, he was fired later on as we
17 know, but --

18 A. Well, no. That -- this right here was to
19 prevent anything. This was to prevent us from even
20 being here today.

21 Q. Okay. Give me a specific example of how
22 those comments in the newspaper article of Mr. Davis
23 actually, in fact, disrupted discipline or harmony
24 in the workplace. Give me a real concrete, specific
25 example of what you thought was an adverse

1 development from that newspaper article. . .

2 A. Okay. Let me go back to this article.

3 Now, what are you mainly talking about?

4 Q. I want you to give me a concrete, specific

5 example that occurred after this newspaper article

6 and the comments of Mr. Davis and the other

7 firefighters that you believe actually disrupted or

8 impaired the operation of this fire department --

9 A. They hadn't.

10 Q. -- as a result of the article and the

11 comments in the paper?

12 A. This is the perception of people that's

13 reading it.

14 Q. I'm sorry?

15 A. This is the perception of the readers.

16 Q. So what are you referring to there? A

17 three alarm turmoil?

18 A. Basically. And that the morale -- the

19 statements that are being made, what are you doing

20 as an employee of the city or the fire department to

21 help, you know, with that. So when you look at

22 that, that's a disruption itself when you haven't

23 given the people that you're working for any type of

24 opportunity or chance to discuss these things.

25 Q. Were there fires not put out, rescues not

1 conducted because of that newspaper article and the
2 quotations from Mr. Davis about employee morale and
3 staffing?

4 A. No. We answer the calls.

5 Q. You answer the calls?

6 A. Yes, sir.

7 Q. Any other specific disruption that you can
8 point to that you were really troubled by as the
9 fire chief as a result of these newspaper articles
10 and comments made by Davis and other firefighters?

11 A. As far as -- okay. Directly by Mr. Davis
12 during the counseling session after this, I had a
13 firefighter, Brandon Wilkerson, that said that he
14 was being bullied by David Davis to make phone calls
15 and complain. And I expressed this to David and we
16 talked to him about this --

17 Q. Okay.

18 A. -- when he came in and we did his
19 counseling session. So it was some things from this
20 that came out of it.

21 Q. Anything else?

22 A. Mainly just as far as not wanting to
23 communicate, but all of these different things in
24 the paper here. But as fire chief, I wasn't given a
25 chance to go over any of these issues or to talk